THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.6975 of 1999

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16.2.2006

Between:

Besta Adimurthy, S/o.Besta Venkatappa

And others

... Petitioners

AND

The District Collector, Anantapur

And others

...Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.6975 of 1999

ORDER:

The land admeasuring Acs.4.75 in survey No.193/2 of Kodigenahalli village of Parigi Mandal in Anantapur District belongs to Tirumala Tirupathi Devasthanams (TTD), the fourth respondent herein. The same was allegedly leased out to grandfather of the petitioners, who was cultivating the land. When the fourth respondent tried to dispossess the tenant, the petitioners' grandfather filed application being A.T.C.No.1 of 1992 before the Court of Junior Civil Judge, Hindupur under A.P. (Andhra Area) Tenancy Act, 1956 (the Tenancy Act). The same was allowed on 11.11.1998 directing the fourth respondent to follow the procedure

laid down in Section 15 of the Tenancy Act and also Section 82 of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (the Endowments Act). The petitioners allege that so as to deny the Tenancy rights to the petitioners, the fourth respondent prevailed over the first respondent to acquire the land. Accordingly, notification under Section 4(1) of the Land Acquisition Act, 1894 (the LA Act) was issued seeking to acquire the land in survey No.193/2 of Kodigenahalli village for providing house sites to weaker sections. Aggrieved by the same, the present writ petition is filed.

The fourth respondent has filed a counter affidavit opposing the writ petition. It is stated that the land in survey No.193/2 was leased out to Besta Venkatappa, the father of the petitioners from 01.4.1971 to 31.3.1977. Subsequently, the same was leased out to the second petitioner from 01.4.1977 to 31.3.1978 on an annual rent of Rs.350/-. As the above lands were uneconomical, it is proposed to conduct public auction. Aggrieved by the same, Besta Venkatappa filed application before the Tahsildar, Hindupur being A.T.C.No.2 of 1977. The same was subsequently transferred to the Court of District Munsif, Hindupur and renumbered as A.T.C.No.2 of 1980. The same was dismissed on 15.3.1983. Aggrieved by the same, Besta Venkatappa filed an appeal being A.T.A.No.4 of 1983 on the file of the Court of the District Judge, Anantapuram. The appeal was allowed in part, but the permanent injunction sought for was not granted. Again, Besta Venkatappa filed A.T.C.No.2 of 1990 before the Special Officer, A.P.Tenancy Tribunal, Hindupur for injunction, which was dismissed on 22.10.1990. In the meanwhile, TTD Board in resolution No.591 dated 27.11.1991 resolved to dispose of the land in public auction and accordingly, a sale notice dated 27.3.1992 was issued. Again, the petitioners' father filed A.T.C. No.1 of 1992 for injunction on the file of the Court of the District Munsif, Hindupur. The same was dismissed on 11.11.1998 observing that TTD should follow the procedure contemplated under Section 15 of the Tenancy Act and Section 82(2) of the Endowments Act.

The learned Counsel for the petitioners, Sri K.V.Ramana, submits that the notification issued under LA Act dispensing with the enquiry under Section 5A of the LA Act is bad and illegal. He further submits that there was no such urgency for dispensing with such enquiry. These contentions are refuted by the learned Assistant Government Pleader for Revenue (Land Acquisition).

It is now well settled that when the land is sought to be acquired under the provisions of the LA Act, for providing house sites, it cannot be said that there is no urgency for invoking Section 17(4) of the LA Act and dispense with the enquiry. Secondly, the applications filed by the father of the petitioners for declaration as statutory right was already rejected by the Court of the District Munsif in A.T.C.No.1 of 1992 dated 11.11.1998, and therefore, the petitioners cannot have any *locus standi*. Lastly, by reason of Section 82(1) of the Endowments Act (as amended by Act 27 of 2002), all the leases of agricultural lands belonging to Endowments, Religious and Charitable institutions stand cancelled and it shall be open to the religious institutions to put them to auction. In such an event, only landless and poor persons as defined in Section 82(2) of the Endowments Act are entitled to certain benefits. The petitioners have not placed any material before this Court to decide

this question. Therefore, this Court does not find any infirmity in the impugned notification.

The writ petition, for the above reasons, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

February 16, 2006.

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